



Docket No.: B6225.0001/P001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Joseph Bekanich et al.

Confirmation No.: 2762

Application No.: 10/527,092

Art Unit: N/A

Filed: March 9, 2005

Examiner: Not Yet Assigned

For: AIRTIME CONTACT MANAGER

STATEMENT OF FACTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is being filed in support of the PETITION UNDER 37 C.F.R. § 1.47(a), filed concurrently herewith.

1. This Statement of Facts addresses why, on the basis of knowledge and belief, co-inventor Joseph Bekanich, one of four (4) listed inventors on the above-referenced application, refused, and continues to refuse, to sign the Declaration and Power of Attorney and Assignment forms that accompany this Statement of Facts. *See* Exhibits 1 and 2 herewith.

The undersigned also has first-hand knowledge of the preparation and filing of a Complaint against Joseph Bekanich in the U.S. District Court for the Southern District of Florida under several theories of business tort brought by assignee Airtime Management, Inc. *See* Exhibit 3.

2. On the basis of knowledge and belief, Joseph Bekanich was an officer and member of the board of directors of the assignee, Airtime, at such time its name was still Bright

Star, Inc. ("Bright Star"), from January 22, 2003 until September 24, 2004, when Joseph Bekenich was voted off the board of directors of Airtime due to an internal board level dispute. *See Exhibit 3, Complaint at ¶ 19.* Joseph Bekenich had previously been discharged as an officer of Airtime by a resolution of the board of directors on July 28, 2004. *See Exhibit 3, Complaint at ¶ 18.*

3. Subsequent to his removal from the board of directors of Airtime, Mr. Bekenich allegedly engaged in several tortious acts against assignee Airtime, in the Commonwealth of Pennsylvania and in the State of Florida, that resulted in Airtime filing a Complaint in U.S. District Court for the Southern District of Florida in CIV-05-80807 on September 2, 2005.

4. Subsequent to the filing of the Complaint, a process server attempted several times and failed to effect service on Mr. Bekenich at his last known address at 2519 North Ocean Boulevard, Boca Raton, FL 33431.

5. The undersigned became aware that Mr. Bekenich had surreptitiously moved his domicile to his mother's residence in Pennsylvania at 243 Sullivan Street, Exeter, PA 18643 in an effort to evade service of process. Joseph Bekenich was personally served with a copy of the Complaint and Summons on September 15, 2005. *See Exhibit 4; Affidavit of Service.*

6. With respect to the above-referenced patent application (Application No. 10/527,092), the undersigned prepared a copy of the Declaration and Power of Attorney and Assignment for the signature of Joseph Bekenich and mailed it via certified mail on September 16, 2005 to the attention of Joseph Bekenich at his most recently known whereabouts, his mother's residence. *See Exhibit 5; photocopy of certified mail envelope addressed to Joseph Bekenich containing executable copy of Declaration and Power of Attorney and Assignment for Application No. 10,527,092.*

7. As reflected on the envelope in Exhibit 5, the postal carrier attempted two deliveries of this envelope, on September 22 and 27, left written notice of same at each attempted delivery, and no one at 243 Sullivan Street, Exeter, PA 18643 ever signed for delivery. *See Exhibit 5.*

8. The envelope in Exhibit 5 was held by the post office, unclaimed, until October 7, 2005, whereupon it was returned to the attention of the undersigned.

9. Prudent and reasonable steps were taken to effect the delivery of executable versions of the Declaration and Power of Attorney and Assignment forms to J. Bekanich at his last known address, *viz.*, his mother's residence. Due to the underlying litigation pending against Joseph Bekanich brought by assignee Airtime, Joseph Bekanich is believed to be unavailable or unwilling to execute the Declaration and Power of Attorney and Assignment documents in Application No. 10/527,092. *See* Exhibit 5.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent application or any patent issued thereon.

Dated: November 7, 2005

Respectfully submitted,

By 
Bradley J. Olson, Esq.

Registration No.: 40,750
DICKSTEIN SHAPIRO MORIN & OSHINSKY
LLP
2101 L Street NW
Washington, DC 20037-1526
(202) 785-9700
Attorney for Applicant